

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3660

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Douglas P. Miller, Chair
Patrick O'Donnell, Committee Counsel
Small Claims and Limited Cases Subcommittee
Hon. Mary Thornton House, Chair
Cara Vonk, Subcommittee Counsel, 415-865-7669
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DATE: September 17, 2002

SUBJECT: New Optional Unlawful Detainer Judgment Forms (approve forms
UD-110, UD-110S, UD-115, and UD-116) (Action Required))

Issue Statement

Courts throughout the state have developed local forms for entry of default and other judgments. Some require use of the local form. Often the local forms use traditional legal language that the parties may not easily understand. At the recommendation of commentators last year, the committee separated the third page for an unlawful detainer judgment from the Judicial Council's civil judgment form, and the Judicial Council adopted a single two-sided optional civil form, *Judgment* (form JUD-100), effective January 1, 2002. The committee then circulated several proposed optional unlawful detainer judgment forms this year for consideration by the public and the Judicial Council.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2003:

1. Approve *Judgment—Unlawful Detainer* (form UD-110) for use in simple unlawful detainer cases after (1) default, for a clerk's judgment for possession of the premises only, or (2) default or court trial, for a court judgment including money damages;

2. Approve *Judgment—Unlawful Detainer Attachment* (form UD-110S) as an attachment to form UD-110 for entry of a conditional judgment when plaintiff has breached the covenant to provide habitable premises to the defendant;
3. Approve *Stipulation for Entry of Judgment (Unlawful Detainer)* (form UD-115) to identify the elements of a stipulation for entry of judgment, and to provide a road map to help the parties and the court answer questions such as when, where, and how many (and in what amount) payments will be made or other conditions performed and what happens if payments or performance are not made as agreed; and
4. Approve *Declaration for Default Judgment by Court (Unlawful Detainer—Code Civil Proc., § 585(d))* (form UD-116) to allow the plaintiff to apply to the court after default for the relief demanded in the complaint using a declaration within the personal knowledge of the declarant instead of personal testimony to prove the case (or fix attorney fees), thereby streamlining the default judgment process for both the court and the applicant.

The proposed optional forms are attached at pages 5–13.

Rationale for Recommendation

Optional Judicial Council forms for entering judgments by default, on stipulation of the parties, or after a court trial in simple unlawful detainer cases will promote statewide uniform practice and should reduce costs for the courts, attorneys, and self-represented parties. The forms will provide the parties and the court with a road map for effectively completing all steps necessary to enter the unlawful detainer judgment, saving time and avoiding errors for all involved.

Alternative Actions Considered

Last year the committee circulated a three-page form for both civil and unlawful detainer judgments. A majority of the commentators recommended that the proposed judgment form be separated into two or three forms because the circulated form was too long, would be confusing to self-represented parties, and would require extra filing cabinet space because the third page would not be needed for simple civil actions. The committee agreed with the commentators and developed a two-page civil judgment form that was approved by the Judicial Council for optional use. The committee developed the current optional unlawful detainer forms for circulation in this comment cycle, as an outgrowth of last year's civil judgment form. The unlawful detainer stipulated judgment form includes a section for payment arrangements that was recommended by a commentator last year.

Comments From Interested Parties

Of the 16 comments received, 9 commentators (three judicial officers, four court staff, one State Bar representative, and one legal aid attorney) agreed with the forms that circulated.

One court staff person, a default clerk, disagreed with the *Judgment—Unlawful Detainer* (form JUD-110)¹, stating that the average person would have difficulty filling out the comprehensive form that circulated and expressing preference for two of that court’s local forms used for (1) a clerk judgment and (2) a court judgment, respectively, because they are simple and easy to complete. She also commented that the proposed form would take longer to process because there are more things for the clerk to look over. The committee noted that the Judicial Council form is intended to be more comprehensive and complete than the two local forms. Further, it shouldn’t take any additional time to complete the clerk’s judgment or the court judgment portion of form JUD-110 than it would take to complete the individual forms. Also, the proposed form is optional and would not preclude a party from using a different form. The committee would like to gain some experience with the forms by trying them out and making adjustments later, if needed.

Six commentators (one judicial officer, two court staff, one attorney, one legal aid attorney, and one software forms publisher) agreed with the forms if they were modified. The committee agreed with many of the thoughtful and useful suggestions made by commentators, including correcting a statutory citation and adding required statutory language to the form, adding the conditional judgment (form JUD-110S) as an optional attachment to the stipulated judgment form, adding an “other” category to the judgment form, adding a box to indicate that attorney fees may be awarded against only one of the named parties, bolding the parties’ rights on the stipulation form, and making stylistic changes suggested by the software forms publisher.

Two commentators urged that appearance information is not necessary on the judgment form (form JUD-110). However, the committee believes it is appropriate to reflect appearances on the judgment form because the judgment does not incorporate the minute order and the form will show the circumstances under which the judgment was made. It also noted that an attorney-prepared judgment always includes the appearances. The committee also disagreed that “past due rent” and “holdover damages” should be replaced with “principal due”

¹ The forms that circulated for comment were numbered JUD-110, JUD-110S, JUD-115, and JUD-116. Subsequently, the forms were renumbered from “JUD” to “UD” to help identify them as forms that would be used only in an unlawful detainer proceeding. The committee plans to establish and transition to a separate “UD” section of unlawful detainer forms.

on all the forms because it is important to provide a road map for the parties and the judicial officer in itemizing all elements of the damage award. There was also consensus that on the *Declaration for Default Judgment by Court* (form JUD-116) judicial officers want to see the entire rental history, including all changes made over the course of time, especially in a default situation, and not just the last rent change.

The committee was also sensitive to concerns that the *Stipulation for Entry of Judgment* (form JUD-115) be user-friendly. In response to two commentators' concern that this form will be misunderstood by self-represented parties and susceptible to abuse, the committee noted that providing a stipulation form is a huge step forward in helping self-represented parties. The form provides express notice of the rights to an attorney and a court hearing, and the concerns of abusive stipulations for entry of judgment exist regardless of the form. If necessary, further improvements can be made after we have gained some experience with the optional form to see if and how it will be used.

On a divided vote, the Civil and Small Claims Advisory Committee recommended that a sample chart at the end of the form be moved to an instruction sheet and removed from the form. The sample chart illustrated how the chart in item 6a would be completed in a hypothetical case to assist parties and the court in properly calculating reduced rental value by percent or specified amount. A majority felt that the examples for reduced rental values of specific items such as broken heater, etc., might set a standard for the appropriate reduced rental value of a broken heater, which was not the intent of the committee. There was also concern that self-represented parties would complete the chart as in the sample, rather than completing it for their own circumstances in the case. The committee plans to develop unlawful detainer instructional materials at a future date, and decided that it would be more appropriate to include the sample in these instructional materials.

A chart summarizing the comments and responses is attached at pages 14–29.

Implementation Requirements and Costs

The new forms are optional and will require no implementation costs other than to make copies available to the public. Some courts may wish to transition from optional local forms to the approved optional Judicial Council forms.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (<i>Optional</i>):</div> </div> <div style="display: flex; justify-content: space-between;"> <div>E-MAIL ADDRESS (<i>Optional</i>):</div> <div></div> </div> ATTORNEY FOR (<i>Name</i>):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<div style="text-align: center;">JUDGMENT—UNLAWFUL DETAINER</div> <div style="display: flex; justify-content: space-around;"> <div> <input type="checkbox"/> By Clerk <input type="checkbox"/> By Court </div> <div> <input type="checkbox"/> By Default <input type="checkbox"/> Possession Only </div> <div> <input type="checkbox"/> After Court Trial <input type="checkbox"/> Defendant Did Not Appear at Trial </div> </div>	CASE NUMBER:

JUDGMENT

1. ☐ **BY DEFAULT**
 - a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. ☐ **Clerk's Judgment** (Code Civ. Proc., § 1169). For possession only of the premises described on page 2 (item 4).
 - e. ☐ **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
 - (1) ☐ plaintiff's testimony and other evidence.
 - (2) ☐ plaintiff's or others' written declaration and evidence (Code Civ. Proc., § 585(d)).

2. ☐ **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
 - a. The case was tried on (*date and time*):
before (*name of judicial officer*):

 - b. Appearances by:

☐ Plaintiff (*name each*):

☐ Plaintiff's attorney (*name each*):
 (1)
 (2)

☐ Continued on *Attachment 2b* (form MC-025).
☐ Defendant (*name each*):

☐ Defendant's attorney (*name each*):
 (1)
 (2)

☐ Continued on *Attachment 2b* (form MC-025).

 - c. ☐ Defendant did not appear at trial. Defendant was properly served with notice of trial.

 - d. ☐ A statement of decision (Code Civ. Proc., § 632) ☐ was not ☐ was requested.

PLAINTIFF: _____ DEFENDANT: _____	CASE NUMBER: _____
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JUDGMENT IS ENTERED AS FOLLOWS BY: ☐ **THE COURT** ☐ **THE CLERK**

3. Parties. Judgment is

a. ☐ for plaintiff (*name each*):

and against defendant (*name each*):

☐ Continued on *Attachment 3a* (form MC-025).

b. ☐ for defendant (*name each*):

4. ☐ Plaintiff ☐ Defendant is entitled to possession of the premises located at (*street address, apartment, city, and county*):

5. ☐ Judgment applies to all occupants of the premises including tenants, subtenants if any, and named claimants if any (Code Civ. Proc., §§ 715.010, 1169, and 1174.3).

6. Amount and terms of judgment

a. ☐ Defendant named in item 3a above must pay plaintiff on the complaint:

(1)	<input type="checkbox"/> Past-due rent	\$	
(2)	<input type="checkbox"/> Holdover damages	\$	
(3)	<input type="checkbox"/> Attorney fees	\$	
(4)	<input type="checkbox"/> Costs	\$	
(5)	<input type="checkbox"/> Other (<i>specify</i>):	\$	
(6)	TOTAL JUDGMENT	\$	

b. ☐ Plaintiff is to receive nothing from defendant named in item 3b.

☐ Defendant named in item 3b is to recover costs: \$

☐ and attorney fees: \$ _____.

c. ☐ The rental agreement is canceled. ☐ The lease is forfeited.

7. ☐ **Conditional judgment.** Plaintiff has breached the agreement to provide habitable premises to defendant as stated in *Judgment—Unlawful Detainer Attachment* (form UD-110S), which is attached.

8. ☐ **Other** (*specify*):

☐ Continued on *Attachment 8* (form MC-025).

Date: _____ ☐ _____
JUDICIAL OFFICER

Date: _____ ☐ Clerk, by _____, Deputy

(SEAL)

CLERK'S CERTIFICATE (*Optional*)

I certify that this is a true copy of the original judgment on file in the court.

Date: _____

Clerk, by _____, Deputy

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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JUDGMENT—UNLAWFUL DETAINER ATTACHMENT

7. ☐ **Conditional judgment.** Plaintiff breached the covenant to provide habitable premises to defendant.
- a. ☐ Defendant must pay plaintiff a reduced rent because of the breach in the amount and for the period shown below.
(Specify each defect on a separate line, the month or months (or other period) that the defect existed, and the percentage or amount of the reduced rent as a result of the defect to arrive at the reasonable value of the premises for the period that the defect or defects existed.)

Month defect existed	Defect	Reasonable rental value is reduced by <i>(specify percentage)</i> or <i>(specify amount)</i>	Reduced monthly rent due
(1)		% \$	\$
(2)		% \$	\$
(3)		% \$	\$
<input type="checkbox"/> Continued on <i>Attachment 7a</i> (form MC-025).			
Total rent due in the 3-day notice is now <i>(specify)</i> :			\$

- b. ☐ Defendant is entitled to attorney fees *(specify)*: \$ _____ and costs *(specify)*: \$ _____.
- c. ☐ Defendant is the prevailing party if defendant pays plaintiff *(specify total rent in item 7a, less any attorney fees and costs in item 7b)*: \$ _____ by _____ p.m. on *(date)*: _____ at _____ *(address)*:
- d. ☐ Judgment will be entered for defendant when defendant has complied with item 7c shown ☐ by defendant's filing of a declaration under penalty of perjury (see form MC-030), with proof of service on the plaintiff, OR ☐ at a hearing that has been set in this court as follows:

Date:	Time:	Dept.:	Room:
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- (1) ☐ Defendant must continue to pay rent after expiration of the 3-day notice if the defendant continues in possession of the premises in the amount of \$ _____ per month. The total rent at item 7a is the corrected amount under the 3-day notice.
- (2) ☐ Plaintiff must repair the defects described in item 7a. The court retains jurisdiction over the case until those repairs are made. Rent remains reduced in the amount of *(specify monthly rent)* \$ _____ until the repairs are made.
- (3) ☐ Rent will increase to *(specify monthly rent)* \$ _____ the day after ☐ plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, stating that all the repairs have been made OR ☐ it is established that all the repairs have been made at a hearing set in this court as follows:

Date:	Time:	Dept.:	Room:
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- e. ☐ Plaintiff is the prevailing party if defendant fails to comply with items 7c and 7d.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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- f. ☐ Judgment will be entered for plaintiff ☐ when plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, that the amount in item 7c has not been paid, OR ☐ at a hearing that has been set in the court as follows:

Date:	Time:	Dept.:	Room:
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(1) <input type="checkbox"/> Past-due rent (<i>item 7a</i>)	\$
(2) <input type="checkbox"/> Holdover damages*	\$
(3) <input type="checkbox"/> Attorney fees (<i>item 7b</i>)	\$
(4) <input type="checkbox"/> Costs (<i>item 7b</i>)	\$
(5) <input type="checkbox"/> Other (<i>specify</i>):	\$
(6) TOTAL JUDGMENT	\$

*Use one of the following formulas: From expiration of the 3-day notice to ☐ today's date ☐ date the premises were vacated (*specify number of days*) times ☐ (specify reduced monthly rent \$ times 0.03228 (12 months divided by 365 days).)

☐ (specify reduced rent per month divided by 30): \$

= Total holdover damages

- g. ☐ Plaintiff is awarded possession of the premises located at (*street address, apartment, city, and county*):

- h. ☐ The rental agreement is canceled. ☐ The lease is forfeited.

8. ☐ Other (*specify*):

- Page 1 of 2

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

7. ☐ Plaintiff and defendant further stipulate as follows (*specify*):

8. a. **The parties named in item 1 understand that they have the right to (1) have an attorney present and (2) receive notice of and have a court hearing about any default in the terms of this stipulation.**

b. Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

☐ Continued on *Attachment 8b* (form MC-025).

c. Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

☐ Continued on *Attachment 8c* (form MC-025).

9. IT IS SO ORDERED.

Date:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin-top: 20px;">DRAFT 12</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF: _____ DEFENDANT: _____	
DECLARATION FOR DEFAULT JUDGMENT BY COURT (Unlawful Detainer—Code Civil Proc., § 585(d))	CASE NUMBER: _____

1. My name is (specify):
 - a. ☐ I am the plaintiff in this action.
 - b. I am

(1) <input type="checkbox"/> an owner of the property	(3) <input type="checkbox"/> an agent of the owner
(2) <input type="checkbox"/> a manager of the property	(4) <input type="checkbox"/> other (specify): _____

2. The property concerning this action is located at (street address, apartment number, city, and county): _____

3. Personal knowledge. I personally know the facts stated in this declaration and, if sworn as a witness, could testify competently thereto. I am personally familiar with the rental or lease agreement, defendant's payment record, the condition of the property, and defendant's conduct.

4. Agreement was ☐ written ☐ oral as follows:
 - a. On or about (date): _____ defendant (name each): _____
 - (1) agreed to rent the property for a ☐ month-to-month tenancy ☐ other tenancy (specify): _____
 - (2) agreed to pay rent of \$ _____ payable ☐ monthly ☐ other (specify frequency): _____
 with rent due on the ☐ first of the month ☐ other day (specify): _____
 - b. ☐ Original agreement is attached (specify): ☐ to the original complaint.
☐ to the *Application for Immediate Writ of Possession*. ☐ to this declaration, labeled Exhibit 4b.
 - c. ☐ Copy of agreement with a declaration and order to admit the copy is attached (specify):
☐ to the *Application for Immediate Writ of Possession*. ☐ to this declaration, labeled Exhibit 4c.

5. ☐ Agreement changed.
 - a. ☐ More than one change in rent amount (specify history of all rent changes and effective dates up to the last rent change) on Attachment 5a (form MC-025).
 - b. ☐ Change in rent amount (specify the last rent change). The rent was changed from \$ _____ to \$ _____, which became effective on (date): _____ and was made
 - (1) ☐ by agreement of the parties and subsequent payment of such rent.
 - (2) ☐ by service on defendant of a notice of change in terms pursuant to Civil Code section 827 (check item 5d).
 - (3) ☐ pursuant to a written agreement of the parties for change in terms (check item 5e or 5f).
 - c. ☐ Change in rent due date. Rent was changed, payable in advance, due on (specify day): _____.
 - d. ☐ A copy of the notice of change in terms is attached to this declaration, labeled Exhibit 5d.
 - e. ☐ Original agreement for change in terms is attached (specify): ☐ to the original complaint.
☐ to the *Application for Immediate Writ of Possession*. ☐ to this declaration, labeled Exhibit 5e.
 - f. ☐ Copy of agreement for change in terms with a declaration and order to admit the copy is attached (specify):
☐ to the *Application for Immediate Writ of Possession*. ☐ to this declaration, labeled Exhibit 5f.

PLAINTIFF: _____ DEFENDANT: _____	CASE NUMBER: _____
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6. Notice to quit.

- a. ☐ Defendant was served with a
- (1) ☐ 3-day notice to pay rent or quit

(2) ☐ 3-day notice to perform covenants or quit

(3) ☐ Other (specify): _____

(4) ☐ 3-day notice to quit

(5) ☐ 30-day notice to quit
- b. ☐ The 3-day notice to pay rent or quit demanded rent due in the amount of (specify): \$ _____ for the rental period beginning on (date) _____ and ending on (date) _____.
- c. ☐ The total rent demanded in the 3-day notice under item 6b is different from the agreed rent in item 4a(2) (specify history of dates covered by the 3-day notice and any partial payments received to arrive at the balance) on Attachment 6c (form MC-025).
- d. ☐ The original or copy of the notice specified in item 6a is attached to (specify): ☐ the original complaint.
☐ this declaration, labeled Exhibit 6d. (The original or a copy of the notice MUST be attached to this declaration if not attached to the original complaint.)

7. Service of notice.

- a. The notice was served on defendant (name each):
- (1) ☐ personally on (date): _____

(2) ☐ by substituted service, including a copy mailed to the defendant, on (date): _____

(3) ☐ by posting and mailing on (date mailed): _____
- b. ☐ A prejudgment claim of right to possession was served on the occupants pursuant to Code of Civil Procedure section 415.46.

8. Proof of service of notice. The original or copy of the proof of service of the notice in item 6a is attached to (specify):

- a. ☐ the original complaint.
- b. ☐ this declaration, labeled Exhibit 8b. (The original or copy of the proof of service MUST be attached to this declaration if not attached to the original complaint.)

9. Notice expired. On (date): _____ the notice in item 6 expired at the end of the day and defendant failed to comply with the requirements of the notice by that date. No money has been received and accepted after the notice expired.

10. The fair rental value of the property is \$ _____ per day, calculated as follows:

- a. ☐ (rent per month) x (0.03288) (12 months divided by 365 days)
- b. ☐ rent per month divided by 30
- c. ☐ other valuation (specify): _____

11. Possession. The defendant

- a. ☐ vacated the premises on (date): _____
- b. ☐ continues to occupy the property on (date of this declaration): _____

12. ☐ Holdover damages. Declarant has calculated the holdover damages as follows:

- a. Damages demanded in the complaint began on (date): _____
- b. Damages accrued through (date specified in item 11): _____
- c. Number of days that damages accrued (count days using the dates in items 12a and 12b): _____
- d. Total holdover damages ((daily rental value in item 10) x (number of days in item 12c)): \$ _____

13. ☐ Reasonable attorney fees are authorized in the lease or rental agreement pursuant to paragraph (specify): _____ and reasonable attorney fees for plaintiff's attorney (name): _____ are \$ _____.

14. ☐ Court costs in this case, including the filing fee, are \$ _____

PLAINTIFF: _____ DEFENDANT: _____	CASE NUMBER: _____
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15. ☐ Declarant requests a judgment on behalf of plaintiff for:

a. ☐ A money judgment as follows:

(1)	<input type="checkbox"/>	Past-due rent (<i>item 6b</i>)	\$
(2)	<input type="checkbox"/>	Holdover damages (<i>item 12d</i>)	\$
(3)	<input type="checkbox"/>	Attorney fees (<i>item 13</i>)*	\$
(4)	<input type="checkbox"/>	Costs (<i>item 14</i>)	\$
(5)	<input type="checkbox"/>	Other (<i>specify</i>):	\$
(6)	TOTAL JUDGMENT		\$

* ☐ Attorney fees are to be paid by
(*name*) only.

b. ☐ Possession of the premises in item 2 (*check only if a clerk's judgment for possession was **not** entered*).

c. ☐ Cancellation of the rental agreement. ☐ Forfeiture of the lease.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Summary of Exhibits

16. ☐ Exhibit 4b: Original rental agreement.

17. ☐ Exhibit 4c: Copy of rental agreement with declaration and order to admit the copy.

18. ☐ Exhibit 5d: Copy of notice of change in terms.

19. ☐ Exhibit 5e: Original agreement for change of terms.

20. ☐ Exhibit 5f: Copy of agreement for change in terms with declaration and order to admit copy.

21. ☐ Exhibit 6d: Original or copy of the notice to quit under item 6a (*MUST be attached to this declaration if it is not attached to original complaint*).

22. ☐ Exhibit 8b: Original or copy of proof of service of notice in item 6a (*MUST be attached to this declaration if it is not attached to original complaint*).

23. ☐ Other exhibits (*specify number and describe*):

Comments for SPR02-17
Unlawful Detainer: New Optional Judgment Forms

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	A. Christian Abasto Attorney Legal Aid Foundation of Los Angeles	AM	Y	<p>Judgment - Unlawful Detainer Attachment (form JUD-110S) sections 6(c), 6(c)(2), and 6(d) require, after the court finds a breach of the warranty of habitability, that it determine whether the tenant has paid the reduced rent and whether the landlord has made the required repairs through the submission of declarations. This is an inadequate method of making such determinations. This requirement will negatively impact unrepresented defendants who generally lack the ability to write or serve a proper declaration. The best method of making these determinations is to hold a postjudgment hearing where unrepresented defendants and plaintiffs can testify about the status of the repairs and the required rent payments. This method has been regularly used in the County of Los Angeles for several years with good results. We are proposing that the council remove the language from the above sections that require the submission of declarations and instead add another subsection that sets a postjudgment hearing date for the court to make the necessary findings.</p> <p>Stipulation for Entry of Judgment (Unlawful Detainer) (form JUD-115) paragraph 2 does not provide space or an option for a stipulation where the defendant or a specifically named party is awarded judgment. There are many cases where parties stipulate for entry of judgment in favor of defendant. And there are cases with multiple plaintiffs or defendants that stipulate to only give judgment to one individual. We are proposing the following</p>	<p>The committee agreed in part. Not all courts use postjudgment hearings in the context of a conditional judgment when there has been a breach of the warranty of habitability. At least one committee member noted that her court successfully uses declarations without significant problems. There was consensus to provide an optional box for setting a postjudgment court hearing. This would be an alternative option to the defendant filing a declaration stating that the conditions have been met. The Judicial Council form <i>Declaration</i> (form MC-030) will also be referenced to help self-represented parties submit the declaration if ordered to do so by the court.</p> <p>(Staff note: Item 6 was renumbered item 7 on the current version of the form.)</p> <p>The committee agreed. It amended the form to provide optional boxes for plaintiff or defendant as suggested with a line for inserting the name of the party against whom judgment is entered.</p>

Comments for SPR02-17
Unlawful Detainer: New Optional Judgment Forms

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>modifications to Paragraph 2:</p> <p>“2. Plaintiff / Defendant / _____ is awarded.”</p> <p>Add the following subsection to Paragraph 6:</p> <p>“c. Judgment will be entered as stated in item 7.”</p> <p>This subsection will give the parties more space in which to arrive at creative settlements for judgment.</p>	The committee agreed. This addition will allow further stipulations to be recorded in narrative form under item 7.
2.	Andrea Agloro Executive Director Sonoma County Legal Aid	A	N	. . . agree with proposed changes.	No response necessary.
3.	Mia A. Baker Leg. Subcommittee Chair The State Bar of California, Standing Committee on the Delivery of Legal Services	A	Y	. . . the Standing Committee reviewed, approved, and strongly supports [this proposal].	No response necessary.
4.	Hon. Ronald L. Bauer Chair Rules and Forms Committee Superior Court of California, County of Orange	AM	Y	<p>. . . agree with proposed changes.</p> <p>The Rules and Forms Committee of the Orange County Superior Court reviewed the proposal and approved the following comments submitted by staff, Virginia Davidow, Director, Civil Limited Operations, and Sandy Smith, Manager, Civil/Small Claims.</p> <p>Comments submitted by Virginia Davidow, Judgment – Unlawful Detainer (form JUD-110):</p> <p>(1) 1.d. Wrong code section cited. Should be CCP 1169. (Allows default to be entered and clerk to enter judgment as requested by plaintiff.)</p>	The committee agreed and made this change on the form for restitution of the premises.

Comments for SPR02-17
Unlawful Detainer: New Optional Judgment Forms

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>(2) 2.b. Appearance information is not necessary on the judgment. All this information should be in the court minutes. Parties will not use the form if they can just do a one-page pleading paper form of their own or use local forms.</p> <p>(3) Page 2, top entry is redundant. This information is at the beginning of page 1: “JUDGMENT IS ENTERED AS FOLLOWS BY: [] THE COURT [] THE CLERK.”</p> <p>(4) Page 2, #4 Wrong code section cited. Should be CCP 715.010, <u>1174.3</u>.</p> <p>(5) #5.b. Remove “named in item 3b” (redundant).</p> <p>(6) #6. Make “conditional judgment” an attachment to</p>	<p>The committee did not agree and believed that it is appropriate to reflect appearances on the judgment. The judgment does not incorporate the minute order and it is appropriate to show the circumstances under which the judgment was made. An attorney-prepared judgment always includes the appearances.</p> <p>The committee did not agree. The information at the beginning of page 1 is simply the title of the form. Page 1 provides preliminary recitals. Page 2 is the actual judgment.</p> <p>The committee agreed. The form that circulated contained a typo. (Item 4 was renumbered to item 5 on the current form.)</p> <p>The committee did not agree. The format is consistent with the general civil judgment form (form JUD-100). The reference to 3b, “Judgment is for defendant (<i>name each</i>).;” saves retyping names. Only some, and not necessarily all defendants, may be prevailing defendants. (Item 5b was renumbered to item 6b on the current form.</p> <p>The committee agreed to make this change to form JUD-115. (Item 6 was renumbered</p>

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				<p>the Stipulated Judgment form.</p> <p>(7) Remove “box” in front of each signature line (redundant). There is no other form with a box in front of a signature line.</p> <p>(8) Remove “Clerk’s Certificate.” There is a fee for certification. How can a judgment be filed with a certification? The certification could end up in the file and parties would easily obtain a certified copy <u>every</u> time a copy is made. Suggest leaving a blank space at the bottom of the form: <i>(This space reserved for Court use.)</i></p>	<p>to item 7 on the current form.)</p> <p>The committee did not agree, although there was substantial discussion on this issue. The boxes indicate that the form may be signed by <i>either</i> the clerk for a clerk’s judgment <i>or</i> by the judge for a court judgment, which is standard Judicial Council format when there is an option. The committee discussed putting both titles with boxes under the signature line, but decided that there was insufficient room to do this, especially considering the difficulty with format, e.g., “Clerk, by _____, Deputy.”</p> <p>The committee did not agree. This provision was put on the general civil judgment form, form JUD-100, effective January 1, 2002, at the request of clerks and circulated for comment last year. It received support from clerks who only requested that the word “optional” be put after the title. The judgment would be copied and then certified after a fee has been paid. The certification is not filed.</p>

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				<p>(9) Judgment – Unlawful Detainer Attachment (form JUD-110S): This form should be attached to the stipulation and <u>signed by the parties, not by the judge</u>.</p> <p>(10) Stipulation for Entry of Judgment (Unlawful Detainer) (form JUD-115): Ok. Add Conditional Judgment as attachment to <u>this</u> form.</p> <p>Comments submitted by Sandy Smith, Judgment – Unlawful Detainer (form JUD-110):</p> <p>Since this form is for Unlawful Detainers, #1d is incorrect. Need to remove everything after “Clerk’s Judgment,” because CCP 585a is a judgment by clerk for money, not for restitution of premises. Need to add after “Clerk’s Judgment” CCP 1169 for restitution of premises.</p> <p>Same form, second page, #5. Should read, “Judgment applies to tenants, subtenants, if any, named claimants, if any, and occupants of the premises (Code Civ. Proc. 715.010, 1169, and 1174.3) (Remove 174.3, as it should be 1174.3) CCP 1169 states that “the default judgment shall include a place to indicate that the judgment includes tenants, subtenants, if any, named claimants, if any, and occupants of the premises.”</p>	<p>The committee did not agree in part. The judge signs this form when a conditional judgment in a breach of warranty of habitability case is issued. However, the committee agreed to add the Conditional Judgment attachment to the <i>Stipulation for Entry of Judgment</i> (form JUD-115) in the event parties wish to stipulate to a conditional judgment in a breach of warranty case.</p> <p>The committee agreed and made this change on the form for restitution of the premises.</p> <p>The committee agreed and made these changes on the form. (Item 4 was renumbered item 5 on the current form.)</p> <p>The committee did not agree, although there was substantial discussion on this</p>

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				<p>Same form, 2nd page where there is a signature line for the Judicial Officer, there should be a slash so a Deputy Clerk could also use the same line to enter a Judgment By Clerk.</p> <p>Example: _____</p> <p style="text-align: center;">Judicial Officer/Deputy Clerk</p> <p>Declaration for Default Judgment by Court Unlawful Detainer (form JUD-116): Page 1, #2 sentence does not make sense if you check a box. Maybe instead “of the owner of the property. . .” state “of the plaintiff entity of the property. . .” Also, add a box to check for “partner.”</p> <p>Same form, page 1, #4e and 5f, seem to sound like the original or copy of the agreement/change in terms is to be attached to the Appl. for Immediate Writ of Possession—which is not required per CCP 1169.</p>	<p>issue. The boxes indicate that the form may be signed by <i>either</i> the clerk for a clerk’s judgment <i>or</i> by the judge for a court judgment under Judicial Council format. The committee discussed putting both titles with boxes under the signature line, but decided that there was insufficient room to do this, especially considering the difficulty with format, e.g., “Clerk, by _____, Deputy.”</p> <p>The committee agreed that there was a spacing problem on the form that circulated for comment. Items 1 and 2 were revised and clarified pursuant to suggestions made by Mr. Welti (commentator 16), below.</p> <p>The committee agreed and reorganized this part of the form pursuant to suggestions made by Mr. Welti (commentator 16), below.</p>

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	Robin Brown Deputy Clerk III Superior Court of California, County of Los Angeles	N	N	<p>Ms. Brown is a default clerk familiar with clerk's judgment and court judgment for both civil limited and unlawful detainer cases.</p> <p>Judgment – Unlawful Detainer (form JUD-110): The judgment form our court utilizes is CI-37 (clerk) and CI-40 (court judgment). They are both incredibly simple, easy to complete and easy to understand. I am aware of several types of judgment forms from numerous law offices throughout the state. When I recently came across a 2-sided OPTIONAL judgment form, I couldn't believe it. It covers all areas, clerk, court, UD, civil, etc. The common person representing themselves, I believe, would have more difficulty filling out this comprehensive form, than the basic CI-37 default by clerk judgment form. I understand wanting to put all eggs in one basket by having every possible thing on a single form, and most clerks would have no problem processing it. However, it will take longer to process, more things for the clerk to look over and hopefully all is correct before entering judgment, or forwarding to the judge for correct judgment. Basic, simple . . . that I feel is best in unlawful detainer cases . . . civil, the same thing.</p> <p>Los Angeles local forms CI-37 and CI-40 are attached for reference.</p>	<p>The committee did not agree. The Judicial Council form is intended to be comprehensive, and more complete than the two Los Angeles forms. It should not take any more time to complete the clerk's judgment or court judgment portion of the form than the individual forms. The form is optional, and therefore does not preclude a party from using a different form. The committee believed that we should gain some experience with the form by trying it out. Changes can be made if needed.</p>

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	George Ducich Forms and Rules Coordinator Superior Court of California, County of San Diego	AM	N	<p>Judgment – Unlawful Detainer (form JUD-110) (Delete 2b, 2c, and 2d – not needed on minutes.)</p> <p>Item 4, C.C.P., § 174. 3 not in CCP.</p> <p>Item 5a(6): Add total “judgment.”</p> <p>Delete Item 6.</p> <p>Item 7 should read just “other.”</p>	<p>The committee did not agree and believed that it is appropriate to reflect appearances on the judgment. The judgment does not incorporate the minute order and it is appropriate to show the circumstances under which the judgment was made. An attorney-prepared judgment always includes the appearances.</p> <p>The committee agreed. This was a typo that has been corrected.</p> <p>The committee agreed. All forms were revised to add “judgment” to “total” so that the forms now read “TOTAL JUDGMENT.” (Item 5 was changed to item 6 on the current form.)</p> <p>The committee disagreed. This is the Conditional Judgment attachment in a breach of warranty of habitability case. (Item 6 was changed to item 7 on the current form.)</p> <p>The committee agreed to make this change. (Item 7 was changed to item 8 on the current form.)</p>

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				<p>Delete <i>Judgment – Unlawful Detainer Attachment</i> (Form JUD-110S). This is decided by the judge in court.</p> <p>Stipulation for Entry of Judgment (Unlawful Detainer) (form JUD-115). Delete the awards of “past due rent” and “holdover damages” and replace with “principal due.”</p> <p>Delete the “deposit of \$” from the item 2 damage award because this is never part of the judgment.</p> <p>Delete options concerning the deposit under item 3 and leave a blank for the parties to complete.</p> <p>Revise item 6b to read that the case will be dismissed without prejudice with the right to reopen and enter judgment upon default of payment without further notice to the defendant.</p>	<p>The committee disagreed. The conditional judgment is part of the written judgment.</p> <p>The committee disagreed because it believes that it is important to itemize the elements of damages, which also serve as a road map for the parties and the judicial officer.</p> <p>The committee disagreed because parties frequently stipulate to include the deposit amount in the total award.</p> <p>The committee disagreed because the various options serve as a road map for the parties in completing the form, including compliance with legal requirements concerning deposits.</p> <p>The committee disagreed and agreed in part. Stipulations for entry of judgment are usually signed but not filed unless there is a default. There is no reason to file the judgment. The case is calendared for dismissal on a date certain. However, if the parties wish to stipulate as suggested, this can be put under item 7, in the “further stipulate as follows” category.</p>

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				<p>Declaration for Default Judgment by Court (Unlawful Detainer – Code Civil Proc., § 585(d)) (form JUD-116). Under item 3, the personal knowledge declaration, add “and if sworn as a witness can competently testify thereto” as required by Code of Civil Procedure section 585(d).</p> <p>All references to “a declaration to admit the copy” should add “declaration <u>and order</u>.”</p> <p>Item 7 “Service of Notice” should add as an option “by posting and mailing on (specify mailing date):”</p> <p>Item 11 concerning the holdover damages should be calculated from the date the defendants vacated the premises if they are no longer occupying the premises. Substitute “principal” for “holdover damages.”</p> <p>Item 14, add an * and provision on the side of the “total judgment” box to indicate that attorney fees may be awarded against only one of the named parties.</p>	<p>The committee agreed and made this change to the form.</p> <p>The committee agreed and made these changes to the form.</p> <p>The committee agreed and made this change to the form.</p> <p>The committee agreed and incorporated both options in reorganized items 11 and 12. The committee disagreed with the term “principal,” as stated above. (Item 11 was changed to item 12 on the current form.)</p> <p>The committee agreed that attorney fees might be awarded only against the party who signed the lease or rental agreement and amended the form as suggested. (Item 14 was changed to item 15 on the current form.</p>
	Stephanie Harbin SLC II Superior Court of California, County of Stanislaus	A	N	. . . agree with proposed changes.	No response necessary.

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	Sandra Mason Director of Civil Operations Superior Court of California, County of San Luis Obispo	A	N	. . . agree with proposed changes.	No response necessary.
	Hon. Laura J. Masunaga Commissioner Superior Court of California, County of Siskiyou	A	N	. . . agree with proposed changes.	No response necessary.
	Hon. Steven L. Monette Commissioner Superior Court of California, County of Los Angeles	A	N	. . . agree with proposed changes. I support the development and utilization of updated forms in unlawful detainer actions. Conditional and stipulated judgments are frequently utilized in these types of actions and the existing forms are often inadequate, in terms of formatting and spacing, to allow for the specific agreement between the parties to be expressed in detailed and legible fashion.	No response necessary.
	Lenor R. Noll Deputy Court Executive Officer Superior Court of California, County of Monterey	A	N	. . . agree with proposed changes.	No response necessary.
	Tina Rasnow Coordinator Self-Help Legal Access Center Superior Court of California, County of Ventura	A	N	. . . agree with proposed changes. I think the forms are wonderful, and so sorely needed. Our local court form does not even provide for the possibility that a tenant might win. Thanks for all your efforts and those of others who created these forms.	No response necessary.

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	Hon. Harry R. Sheppard Presiding Judge Superior Court of California, County of Alameda	A	N	. . . agree with proposed changes.	No response necessary.
	Richard K. Uno Managing Attorney Human Rights/Fair Housing Commission	AM	N	I believe Stipulation Form (form JUD-115) could be used by some landlord lawyer to railroad tenants without tenants fully understanding the consequences of entering a stipulation to enter judgment.	The committee agreed in part. It was sympathetic with the commentator's concerns. These concerns would exist regardless of the existence of a form and "railroading" might happen in isolated instances. However, without a form the tenants might not know about their rights to have (1) an attorney present and (2) a court hearing about any default in terms of this stipulation. The committee bolded this statement, which immediately precedes the signature line.
	Charlene Walker Division Manager Carol Miller Justice Center Superior Court of California, County of Sacramento	AM	Y	The judgment, judgment attachment, and default judgment forms are all improvements. There is concern, however, that the Stipulation for Entry of Judgment (form JUD-115) would be confusing to pro se defendants. If the goal is to make forms more readily understood by pro ses, this form defeats that purpose. Since more than 90% of the defendants in local UD cases appear in pro se, serious reconsideration should be given the form's language and design.	The committee is sensitive to concerns that forms be user-friendly and is familiar with the work of the Access and Fairness Advisory Committee. It is the view of the committee that providing a stipulation form is a huge step forward in helping self-represented parties. The commentator did not offer any guidance on how the form might be improved. The committee would like to gain experience with the form to see if and how it will be used.
	Walt Welte President Helpusoft Corporation	AM	N	Judgment – Unlawful Detainer (form JUD-110) Item 1d: Clerk's Judgment should refer to CCP 1169 for possession only.	The committee agreed and made this change to the form.

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				<p>Item 2b: Please remove itemized numbers (1) and (2) under plaintiff and defendant names so more names can be typed.</p> <p>Page 2: Typo on page 2 CCP 174.3 should be 1174.3.</p> <p>Other: Consider rearranging items 4 to 7, since clerk's judgments can only be for possession. I would move up the description of the premises. Please see attached commentator's revised form.</p> <p>(Declaration for Default Judgment by Court–Unlawful Detainer) (form Jud-116)</p> <p><u>Item 1</u>: Provides a detailed description regarding declarant's relationship to plaintiff. We felt it was necessary to include "other (specify)" in case declarant is something else.</p> <p><u>Item 2</u>: We felt the property address should be included here, so it could be referred to if declarant is requesting possession of the premises in addition to monetary relief.</p> <p><u>Item 3</u>: We added some language that appears to be required under CCP 585(d)...each affidavit shall show affirmatively that... "if sworn as a witness, can</p>	<p>The committee agreed and made this change to the form.</p> <p>The committee agreed to correct this typo.</p> <p>The committee agreed with these suggestions and revised the form.</p> <p>The committee agreed that an "other" category should be added. However, it did not agree that all of the suggested relationships to the plaintiff as listed in the complaint, such as "partner," "officer," or "employee," are required. These can be listed under the category "agent of the owner."</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change.</p>

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				<p>testify competently thereto”.</p> <p><u>Item 4:</u> This format is similar to the complaint and provides for tenancies that pay rent in nonmonthly intervals.</p> <p><u>Item 5:</u> We felt that most landlords will not remember or keep records of each rent increase made, so we simplified the format to specify the last rent change. Other rent changes would not be relevant to the current tenancy. If the rent change was made by an oral agreement, there must be a subsequent payment of the new rent for the change to be valid (we added this item). Most rent changes to a tenancy are made pursuant to Civil Code 827 by serving the tenant with a notice, so we felt it was necessary to add this item.</p> <p><u>Item 6b:</u> We simplified information requested for the 3-day notice to pay rent or quit to include only the beginning and ending periods stated in the notice to affirm the date that damages begin. All other dates and amounts would have no effect on the judgment amount. Furthermore, such information would be available in the notice that must be attached to the declaration or complaint.</p> <p><u>Item 6c:</u> This item was added for unlawful detainer actions based on CCP 1161(5) when the tenant serves landlord with a written termination notice and later</p>	<p>The committee agreed and made this change.</p> <p>The committee disagreed with this suggestion. There was consensus of judicial officers on the committee that they want to see the rental history, or paper trail, especially in a default situation. Working this up on the form will mean less time in the courtroom. The committee preferred the format used by the commentator and eliminated the box. If there is more than one change in rent amount, the rental history must now be provided on an <i>Attachment</i> (form MC-025).</p> <p>The committee disagreed with this suggestion, and as under item 5, would like to see the history of dates covered by the three-day notice and any partial payments received to see how the balance claimed to be due was arrived at. This should be on the form and not require the judge to look for each 3-day notice.</p>

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				<p>fails to vacate.</p> <p><u>Item 8</u>: This item clarifies that no money has been “received and accepted” since the notice expired. In many cases rent will be received (after expiration of a notice that elects forfeiture) and the rent payment is returned and not accepted. Any acceptance of rent would void the notice.</p> <p><u>Item 9</u>: This item was added for unlawful detainer actions based on CCP 1161(1) when the tenant fails to vacate after expiration of a fixed-term lease.</p> <p><u>Item 10</u>: This item clarifies how daily damages were calculated. We felt it was necessary to add “other valuation (specify):” in case the damages are based on the value of comparable rentals. Under Civil Code 1951.2, plaintiff may recover from defendant “the worth at the time of award ... unpaid rent which would have been earned after termination.”</p> <p><u>Item 11</u>: This item requires declarant to provide a date that will be used in item 12 to calculate the damages.</p> <p><u>Item 12</u>: This item clarifies exactly how the holdover damages are calculated. Note that damages continue through the date specified in item 11, and not necessarily the date of the declaration.</p> <p><u>Item 15</u>: We felt that requesting possession of the</p>	<p>The committee disagreed that this item should be added to the form because it is unusual and can be accommodated under “other.”</p> <p>The committee agreed to clarify the form as suggested by the commentator. (Item 8 was changed to item 9 on the current form.)</p> <p>The committee disagreed. There was consensus that this is not needed on the form.</p> <p>The committee agreed with this suggestion.</p> <p>The committee agreed with this suggestion.</p> <p>The committee agreed with this suggestion.</p>

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				premises should be optional in case a clerk's judgment was already entered. Requesting forfeiture of the agreement should also be optional.	The committee agreed with this suggestion.